

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARL L. TAYLOR,

Plaintiff,

Case No. C10-1763-RAJ

V.

ORDER DISMISSING CASE

MICHAEL J. ASTRUE,

Defendant.

13 The Court has considered the Report and Recommendation (“R&R”) (Dkt. # 19) of the
14 Honorable Brian A. Tsuchida, United States Magistrate Judge, Plaintiff’s objection (Dkt. # 20) to
15 the R&R, and Defendant’s response. The court has also considered the administrative record and
16 other portions of the record relevant to its review.

17 Plaintiff raises three objections. First, he contends that the R&R does not address his
18 argument that the Defendant failed to include the administrative record from Plaintiff's prior
19 unsuccessful disability benefits application as part of the administrative record in this action.
20 Plaintiff fails to explain why this matters. The ALJ made clear that he referenced the ruling in the
21 prior application only to establish a baseline for whether the current application for benefits was
22 sufficient to rebut the presumption that Plaintiff continued to be not disabled. The current
23 administrative record provides ample support for the ALJ's conclusion, and Plaintiff has not
explained what detriment he suffers as a result of not including the prior record.

1 Second, Plaintiff contends that a new period of sobriety since the denial of his prior
2 benefits application constitutes changed circumstances sufficient to rebut the presumption noted in
3 the previous paragraph. The court agrees with the R&R that the testimony of Dr. John Nance at
4 the hearing to resolve Plaintiff's second application is a sufficient basis for the ALJ's conclusion
5 that Plaintiff's physical and mental limitations while sober do not render him disabled.

6 There is no need to address Plaintiff's third objection, which targets only the ALJ's
7 alternate conclusion that even if Plaintiff has rebutted the presumption of continuing non-
8 disability, he is not disabled.

9 The court orders as follows:

10 (1) The court adopts the Report and Recommendation and denies Plaintiff's objection.

11 (2) The court affirms the final decision of the Commissioner and directs the clerk to

12 dismiss this case with prejudice.

13 (3) The court directs the clerk to enter judgment for Defendant.

14 (4) The court directs the clerk to send copies of this order and the judgment to the

15 parties and to Judge Tsuchida.

16 DATED this 10th day of August, 2011.

Richard D. Jones

The Honorable Richard A. Jones
United States District Court Judge